

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6380 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BIPINCHANDRA M BHATT

Versus

MUNICIPAL CORPORATION OF A'BAD

Appearance:

MR KY KOGZE for Petitioners

MR SP SEN for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/07/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioners by this Special Civil Application challenges the resolution of the respondent, Municipal Corporation of the city of Ahmedabad, dated 19th October, 1983, and prayed for the direction to the respondent-Corporation, its officers, servants, agents, etc. to pay to the petitioners and other Electricians working in the Light and Power Plant Department of the Corporation, motor-cycle allowance at the rate paid to

other employees of the Corporation including the Refrigeration Mechanics from the date of the Award of the Industrial Tribunal in I.T. Reference No.439 of 1979 dated 23-2-1980 and not from the date of the impugned resolution dated 19-10-1983 passed by the Standing Committee of the Corporation.

3. The Ahmedabad Municipal Mazdoor Association raised an industrial dispute being I.T. Reference No.439 of 1978, before the Industrial Tribunal, claiming inter-alia that the Electricians working with the respondent-Corporation are entitled to motor-cycle allowance which was being paid to other employees of the Corporation who were performing similar out-door duties as the petitioners. The reference came to be allowed under the award dated 23-2-1980 and the Industrial Tribunal held that the Electricians employed by the Corporation in the Light and Power Plant Department be paid motor-cycle allowance at the rate of Rs.150/- p.m.. It has further been provided in the award that the Electricians are entitled to motor-cycle allowance from the date they actually kept and maintained the motor-cycle. That award has been confirmed by this Court as the Sp. C.A. No.3459/80 filed by the Corporation against the same has been dismissed.

4. Under the impugned resolution, it has been resolved that the Electricians are entitled for the allowance from the date of the resolution. The counsel for the petitioners contended that this resolution is contrary to the award. This Court is not an executing court of the awards passed by the Industrial Tribunal. In case the petitioners consider themselves to be entitled for the benefits from the dates as shown by them in annexure 'B' and the impugned resolution is contrary to the award of the Industrial Tribunal then proper remedy was to file an appropriate application under the provisions of the Industrial Disputes Act, 1947, for the computation of the benefits. Under the Act, 1947, sufficient provisions are being made for the enforcement of the awards passed by the Industrial Tribunal or the Labour Court. Instead of approaching to appropriate forum, the petitioners filed this Special Civil Application. The counsel for the petitioners contended that they are challenging the resolution, but the challenge has been made on the ground that it is contrary to the award of the Industrial Tribunal, and this matter could have been raised by the petitioners before the Industrial Tribunal by filing an appropriate application for computation of the benefits under the award. The Tribunal could have gone into the question whether the

resolution is contrary to the award or not and appropriate relief could have been granted. This Special Civil Application is wholly misconceived. However, the dismissal of this Special Civil Application will not come in the way of the petitioners to file an appropriate application for computation of the benefits under the award before the authority under the Industrial Disputes Act, 1947.

5. The Special Civil Application is dismissed subject to the aforesaid observations. Rule discharged.
